IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1399 OF 2005

IN

CIVIL APPLICATION NO.1964 OF 2005

Jubeida Junaid Momin & Ors. ..Appellants.

Vs.

Khairunissa Abdul Salam Momin & Ors..Respondents.

...

Mr.Sandesh D. Patil for the Appellants.

CORAM : DR.D.Y.CHANDRACHUD, J.

2nd December, 2005.

P.C. :

The Original Plaintiffs are all daughters of Khuram Noor Mohammad Momin who was the owner of the suit property and the house constructed thereon. The original owner and his wife both expired. The Plaintiffs have instituted Regula Civil Suit 807 of 1991 for the administration of the estate of the deceased. In the meantime, the Appellants demolished the house which was standing

on the property and proceeded to carry out the construction of a building. The First Appellate Court has correctly come to the conclusion that the Appellants were aware of the claim of the Plaintiffs in the suit property. In these circumstances, an order of injunction has been granted restraining the Appellants from alienating, disposing of or creating any third party interest in the land and the construction. This is necessary in order to preserve the rights of the parties which will be finally adjudicated upon in the suit for administration of the estate of the deceased. In that view of the matter, the Second Appeal does not raise any substantial question of law. However, while dismissing the Second Appeal, it is clarified that since this Appeal is preferred by the Original Defendants against the order of injunction, this Court has had no occasion to consider the correctness of the orders of the Court below in so far as they denied the relief of mandatory injunction to the Plaintiff.

In view of the disposal of the Second Appeal, the Civil Application is rendered infructuous and is accordingly disposed of.